

S.B. Civil Writ Petition No.77/2002

Assistant Director LBT Jaipur

Vs.

Hotel Craft Palace (P) Ltd. & Ors.

20.07.2007

Hon'ble Dr. Vineet Kothari, J.

Mr.D.D. Sharma, Dy.G.A., for the petitioner.

Mr.A. Kasliwal for the respondent.

Heard learned counsel for the parties.

This petition is directed against the order dated 2.9.1998 passed by the Additional Divisional Commissioner, Jaipur whereby he set aside the order of assessment passed by the Assessing Authority under the Land & Building Act, 1964, which was upheld by the First Appellate Authority and holding that since the liability to pay the tax is commenced only from the date of possession of the land in question given by the Municipal Council on 7.4.1992 though the auction in favour of the respondent – assessee was finalized on 12.10.1990, therefore, only 20% of the cost index could be added to the auction price to arrive at the market value as on 1.4.1993. There is no dispute to this from the side of the respondent - assessee.

The other addition in the market value is with regard to the

stamp duty and registration charges of Rs.14,10,131/- and Rs.15,000/- respectively in the revised assessment order under Section 15B of the Act for which the learned counsel for the respondent – assessee submits that such addition to the market value contrary to the Department's own Circular No.2/95 dated 28.6.1995 issued by the Director of the said Department, which is binding on the Assessing Authority.

In view of the aforesaid position, it appears that the learned Assessing Authority had erred in adding the cost of stamp duty and registration in the market value of the property in question as on 1.4.1993, the same being contrary to the department's own circular, which is binding on the learned Assessing Authority. Since there is no dispute on the point that the liability to pay the tax is commenced from the date of possession given to the respondent – assessee or the financial year commencing after the said date, namely, 1.4.1993, the impugned assessment order passed under Section 15-B of the Act to the extent of adding 50% of the auction price by taking two annual cost index of 20% each and 50% of that for half year appears to be incorrect and the Revisional Authority appears to be right in applying only one cost index of 20% after the date of possession of the property in question to arrive at the market value as on 1.4.1993.

Thus, this Court finds no force in this writ petition of the Assistant Director, Rajasthan Land and Building Tax Department and the same is, hereby dismissed with no order as to costs.

[Dr. Vineet Kothari],J.

S.S.Jr.P.A.
Item No.22